

THE TRAFFIC (AMENDMENT) BILL, 2012

A Bill for

AN ACT of Parliament to amend the Traffic Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Traffic (Amendment) Act, 2012.

Amendment of section 12 of Cap.403.

2. The Traffic Act (in this Act referred to as “the principal Act”) is amended in section 12 by inserting the following new subsection immediately after subsection(2)—

“(3) The identification plates issued under this Act are the property of the Kenya Revenue Authority and shall be non-transferable, and a person who sells or transfers a motor vehicle to another person shall forthwith surrender the identification plates to the Registrar of Motor Vehicles in such manner as may be prescribed.

(4) An identification plate issued under this Act shall cease to be valid regarding the motor vehicle to which it relates if the insurance cover of the motor vehicle issued pursuant to the Insurance (Motor Vehicle Third Party Risks) Act Cap. 405 or any other written law expires and is not renewed within thirty days of the expiry of the cover, and the owner of the motor vehicle shall forthwith surrender the identification plates to the Registrar of Motor Vehicles in the prescribed manner.

(5) A person who fails to surrender a licensing plate as required under this section commits an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand shillings and, in addition, a fine of ten thousand shillings for every month during which the failure persists.”

Amendment of section 30 of Cap.403.

3. The principal Act is amended in section 30(4) by—

- (a) deleting the words “of twelve months;
- (b) deleting the words “at the option of the holder thereof”.

Amendment of section 44 of Cap. 403.

4. The principal Act is amended in section 44 by deleting subsection (1) and substituting therefor the following new subsection—

“(1) A person who, when driving or attempting to drive, or when in charge of a motor vehicle on a road or other public place, is under the influence of drink or a drug to such an extent as to be incapable of having proper control of the vehicle, commits an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding ten years, or to a fine not exceeding five hundred thousand shillings, or both.”

Amendment of section 45 of Cap 403.

5. The principal Act is amended in section 45 by deleting subsection (1) and substituting therefor the following new subsection—

“(1) A person who, when driving or in charge of, or during any period of duty in connexion with the driving of, a public service vehicle, drinks any intoxicating liquor commits an offence and shall be liable, upon conviction, to imprisonment for a term of not less than ten years, or to a fine not less than five hundred thousand shillings, or to both.”

Insertion of new section 45A in Cap. 403.

6. The principal Act is amended by inserting the following new section immediately after section 44—

Driving on pavements, etc.

45A. (1) No motor vehicle shall, in order to avoid a build up of traffic on a road, be driven on, or through, a pavement, a pedestrian walkway or a petrol station, as the case may be.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, upon conviction, to imprisonment for a term not less than three months, or to a fine of not less than thirty thousand shillings, or to both.

Amendment of section 46 of Cap. 403.

7. The principal Act is amended in section 46 by deleting the words “a term not exceeding ten years and the court shall exercise the power conferred by Part VIII of cancelling any driving licence or provisional driving licence held by the offender and declaring the offender disqualified for holding or obtaining a driving licence for a period of three years starting from the date of conviction or the end of any prison sentence imposed under this section, whichever is the later” appearing immediately after the words “imprisonment for” and substituting therefor the word “life”.

Insertion of new section 69A in Cap. 403.

8. The principal Act is amended by inserting the following new section immediately after section 69—

Mounting of roadblocks.

69A. (1) The Inspector-General of the Police may, by notice in the Gazette, designate a place along a public road on which a police roadblock may be mounted.

(2) A roadblock shall not be mounted in a place other than the place designated under subsection (1), but may be mounted in a non-designated place only in exceptional circumstances certified as such by the Inspector-General or by an officer authorized on that behalf by the Inspector-General.

Amendment of section 70 of Cap.403.

9. The principal Act is amended in section 70 by—

(a) inserting the following new subsection immediately after subsection (1)—

“(1A) Without prejudice to the generality of subsection (1), a highway authority shall cause to be placed on or near a road traffic signs prescribing speed limits on the road.”;

(b) inserting the following new subsections immediately after subsection (5)—

“(5A) The driving licence of a person who has been convicted for the violation of a speed limit prescribed for a road under subsection (1A) shall be invalidated for a period not less than three years—

(a) if the violation of the limit is by up to ten kilometres per hour; and

(b) the violation is repeated three or more different times.

“(5B) A person who violates a speed limit prescribed for a road under subsection (1A) by up to twenty kilometres per hour commits an offence and shall be liable, on conviction, to imprisonment for a term of not less than three months, or a fine of not less than twenty thousand shillings, or both.”

Amendment of section 71 of Cap.403.

10. The principal Act is amended in section 71 by inserting the following new subsection immediately after subsection (1)—

“(1A) the highway authority shall, except in the case of an emergency, as may be determined by the authority, and by notice in the Gazette, give notice of the intention to close the road or any part thereof at least seven days before the closure.”

Amendment of section 100 of Cap. 403.

11. The principal Act is amended in section 100 by deleting the words “shall each be guilty of an offence and liable to a fine not exceeding twenty thousand shillings” appearing in subsection (2), and substituting therefor the words “commits an offence each and shall be liable, upon conviction, to a fine not exceeding twenty thousand shillings and an additional amount of five thousand shillings for each person in excess of the licensed capacity.”

Insertion of new section in Cap. 403.

12. The principal Act is amended by inserting the following new sections immediately after section 103—

Uniforms and special badge.

103A. (1) Every driver and every conductor of a public service vehicle shall wear a special badge and uniform.

(2) The uniform referred to in subsection (1) shall be prescribed by the Registrar of Motor Vehicles and shall, in the case of a driver, be navy blue in colour and in the case of a conductor, be maroon in colour.

(3) The special badges required under subsection (1) shall be provided by the Registrar of Motor Vehicles upon satisfaction of all requirements and upon payment of the prescribed fee.

(4) Every driver of a public service vehicle shall undergo compulsory testing after every two years to ascertain his or her competence.

(5) Every owner of a public service vehicle shall employ at least one driver and one conductor who shall be the holder of a certificate of good conduct issued by the relevant authority.

(6) Every conductor or driver of a public service vehicle shall only take up employment as such upon being vetted pursuant to subsection (5) and shall be paid a permanent monthly salary by the owner of the public service vehicle.

(7) A person who contravenes or fails to comply with the provisions of this section commits an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding twelve months, or to a fine of not less than ten thousand shillings, or both.

Helmets and reflector jackets.

103B. (1) A person, including a passenger, shall not ride on a motor cycle of any kind, class or description without wearing a helmet and a jacket that has reflectors.

(2) A person who rides a motor cycle shall provide a helmet and a jacket that has reflectors to be worn by the passenger, and shall carry only one passenger at a time.

(3) Every motor cycle shall be insured against third party risks in accordance with the Insurance (Motor Vehicles Third Party Risks) Act. **Cap. 405**

(4) For the purposes of this section, a helmet shall be of such shape, construction and quality as may, from time to time, be prescribed by the Minister by notice in the gazette.

(5) A person shall not ride a motorcycle unless that person has a valid driving licence issued in accordance with the provisions of the Act.

(6) For the purpose of this section, "ride" means to operate, manage or to be in control of a motor cycle.

(7) A person who contravenes or fails to comply with the provisions of this section commits an offence and is liable to a fine not exceeding ten thousand shillings or, in default of payment, to imprisonment for a term not exceeding twelve months.

Unauthorised driving.

103C. (1) A person who, while not being the designated driver of a public service vehicle, drives the vehicle while not being authorised to do so commits an offence.

(2) The driver of a public service vehicle who lets an unauthorised person drive the vehicle commits an offence.

(3) A person who is convicted of an offence under this section shall be liable to imprisonment for a term not exceeding ten years, or a fine not exceeding five hundred thousand shillings, or to both.

13. The principal Act is amended by inserting the following new sections immediately after section 105—

Insertion of new section 105A in Cap. 403.

Eye test.

105A. (1) A person holding a licence issued pursuant to section 30 of this Act shall, after every three years from the date of issue of a licence, or renewal of a licence, whichever is the case, undergo an eye test.

(2) A driving licence shall not be renewed under this Act unless the person seeking the renewal produces to a licensing officer a report prepared by a medical practitioner certifying the condition of the applicant's eye sight, and whether or not that condition makes the applicant fit to drive a motor vehicle.

(2) A person who contravenes subsection (1) commits an offence and shall be disqualified from holding a licence for a period not exceeding three years.

Insertion of new section 117A in Cap. 403.

14. The principal Act is amended by inserting the following new sections immediately after section 117—

Preparation of summary document.

117A. The Inspector-General of the Police shall cause to be prepared a document showing the offences set out in this Act and their respective penalties, in a summary form, and the document shall be made available to all law enforcement officers for purposes of enforcing this Act.

Abolition of Traffic Department.

117B. For the avoidance of doubt, the administrative unit of the Kenya Police Service known as the Traffic Department is hereby abolished.

MEMORANDUM OF OBJECTS AND REASONS

The objective of this Bill is to amend the Traffic Act (Cap.403) to vest ownership of motor identification plates on the Kenya Revenue Authority, and to require surrender of the plates to the Registrar of Motor Vehicles once a motor vehicle is transferred from one person to another.

The Bill further seeks to enhance the penalties for various traffic offences in order to deter commission of those offences and consequently minimise loss of lives on Kenyan roads through accidents.

The Bill also seeks to abolish the Traffic Police Department in order to vest enforcement of traffic laws and regulations on all police officers.

The enactment of this Bill will not occasion additional expenditure of public funds.

Dated the 21st November, 2011.

JAKOYO MIDIWO,
Member of Parliament.